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105TH CONGRESS  
2D SESSION**H.R. 3470**

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provisions, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

MARCH 17, 1998

Mr. STARK (for himself, Mr. BROWN of Ohio, Mr. GEPHARDT, Mr. RANGEL, Mr. DINGELL, Mr. BECERRA, Mr. BORSKI, Mr. BROWN of California, Mr. CARDIN, Mr. CHRISTENSEN, Mrs. CLAYTON, Mr. COYNE, Ms. DELAURO, Mr. DEUTSCH, Mr. DOOLEY of California, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GONZALEZ, Mr. GREEN, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOYER, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. KLECKZA, Mr. KUCINICH, Mr. LAFALCE, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. MALONEY of Connecticut, Mr. MARKEY, Mr. MATSUI, Mr. McDERMOTT, Mr. McGOVERN, Mr. McHALE, Mr. MEEHAN, Mr. MEEKS of New York, Mr. MENENDEZ, Mr. MILLER of California, Mr. MOAKLEY, Mr. MURTHA, Mr. NADLER, Mr. OLVER, Mr. PALLONE, Mr. PASCRELL, Ms. PELOSI, Mr. RAHALL, Mr. RUSH, Mr. SANDLIN, Mr. SCHUMER, Mr. SERRANO, Mr. STOKES, Mr. STUPAK, Mr. TIERNEY, Mr. TOWNS, Mr. UNDERWOOD, Mr. WAXMAN, Mr. WEYGAND, Mr. WISE, Ms. WOOLSEY, Mr. YATES, Mr. OBERSTAR, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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**A BILL**

To amend title XVIII of the Social Security Act and the

Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provisions, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2   *tives of the United States of America in Congress assembled,*

3   **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
 5   “**Medicare Early Access Act of 1998**”.

6       (b) TABLE OF CONTENTS.—

See. 1. Short title; table of contents.

**TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-  
 TO-65 YEARS OF AGE**

Sec. 101. Access to Medicare benefits for individuals 62-to-65 years of age.

**“PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS  
 AGE 62-TO-65 YEARS OF AGE**

“Sec. 1859. Program benefits; eligibility.

“Sec. 1859A. Enrollment process; coverage.

“Sec. 1859B. Premiums.

“Sec. 1859C. Payment of premiums.

“Sec. 1859D. Medicare Early Access Trust Fund.

“Sec. 1859E. Oversight and accountability.

“Sec. 1859F. Administration and miscellaneous.

**TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED  
 WORKERS 55-TO-62 YEARS OF AGE**

Sec. 201. Access to Medicare benefits for displaced workers 55-to-62 years of age.

**TITLE III—COBRA PROTECTION FOR EARLY RETIREES**

**Subtitle A—Amendments to the Employee Retirement Income Security Act of  
 1974**

Sec. 301. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

#### TITLE IV—FINANCING

Sec. 401. Reference to financing provisions.

## **TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE**

### **SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE.**

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after such section the following new part:

**“PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE**

### **“SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.**

“(a) ENTITLEMENT TO MEDICARE BENEFITS FOR ENROLLED INDIVIDUALS.—

“(1) IN GENERAL.—An individual enrolled under this part is entitled to the same benefits under this title as an individual entitled to benefits under part A and enrolled under part B.

1                 “(2) DEFINITIONS.—For purposes of this part:

2                         “(A) FEDERAL OR STATE COBRA CONTINU-  
3                     RATION PROVISION.—The term ‘Federal or State  
4                     COBRA continuation provision’ has the mean-  
5                     ing given the term ‘COBRA continuation provi-  
6                     sion’ in section 2791(d)(4) of the Public Health  
7                     Service Act and includes a comparable State  
8                     program, as determined by the Secretary.

9                         “(B) FEDERAL HEALTH INSURANCE PRO-  
10                  GRAM DEFINED.—The term ‘Federal health in-  
11                  surance program’ means any of the following:

12                         “(i) MEDICARE.—Part A or part B of  
13                     this title (other than by reason of this  
14                     part).

15                         “(ii) MEDICAID.—A State plan under  
16                     title XIX.

17                         “(iii) FEHBP.—The Federal employ-  
18                  ees health benefit program under chapter  
19                  89 of title 5, United States Code.

20                         “(iv) TRICARE.—The TRICARE  
21                  program (as defined in section 1072(7) of  
22                  title 10, United States Code).

23                         “(v) ACTIVE DUTY MILITARY.—Health  
24                  benefits under title 10, United States

Code, to an individual as a member of the uniformed services of the United States.

3                         “(C) GROUP HEALTH PLAN.—The term  
4                         ‘group health plan’ has the meaning given such  
5                         term in section 2791(a)(1) of the Public Health  
6                         Service Act.

7        "(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65  
8 YEARS OF AGE.—

9               “(1) IN GENERAL.—Subject to paragraph (2),  
10              an individual who meets the following requirements  
11              with respect to a month is eligible to enroll under  
12              this part with respect to such month:

13                         “(A) AGE.—As of the last day of the  
14                         month, the individual has attained 62 years of  
15                         age, but has not attained 65 years of age.

16                   “(B) MEDICARE ELIGIBILITY (BUT FOR  
17                   AGE).—The individual would be eligible for ben-  
18                   efits under part A or part B for the month if  
19                   the individual were 65 years of age.

20                         “(C) NOT ELIGIBLE FOR COVERAGE  
21                         UNDER GROUP HEALTH PLANS OR FEDERAL  
22                         HEALTH INSURANCE PROGRAMS.—The individ-  
23                         ual is not eligible for benefits or coverage under  
24                         a Federal health insurance program (as defined  
25                         in subsection (a)(2)(B)) or under a group

1           health plan (other than such eligibility merely  
2           through a Federal or State COBRA continu-  
3           ation provision) as of the last day of the month  
4           involved.

5           “(2) LIMITATION ON ELIGIBILITY IF TERMI-  
6           NATED ENROLLMENT.—If an individual described in  
7           paragraph (1) enrolls under this part and coverage  
8           of the individual is terminated under section  
9           1859A(d) (other than because of age), the individual  
10          is not again eligible to enroll under this subsection  
11          unless the following requirements are met:

12           “(A) NEW COVERAGE UNDER GROUP  
13           HEALTH PLAN OR FEDERAL HEALTH INSUR-  
14           ANCE PROGRAM.—After the date of termination  
15          of coverage under such section, the individual  
16          obtains coverage under a group health plan or  
17          under a Federal health insurance program.

18           “(B) SUBSEQUENT LOSS OF NEW COV-  
19           ERAGE.—The individual subsequently loses eli-  
20           gibility for the coverage described in subpara-  
21           graph (A) and exhausts any eligibility the indi-  
22           vidual may subsequently have for coverage  
23           under a Federal or State COBRA continuation  
24           provision.

1           “(3) CHANGE IN HEALTH PLAN ELIGIBILITY  
2       DOES NOT AFFECT COVERAGE.—In the case of an  
3       individual who is eligible for and enrolls under this  
4       part under this subsection, the individual’s continued  
5       entitlement to benefits under this part shall not be  
6       affected by the individual’s subsequent eligibility for  
7       benefits or coverage described in paragraph (1)(C),  
8       or entitlement to such benefits or coverage.

9       **“SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.**

10       “(a) IN GENERAL.—An individual may enroll in the  
11      program established under this part only in such manner  
12      and form as may be prescribed by regulations, and only  
13      during an enrollment period prescribed by the Secretary  
14      consistent with the provisions of this section. Such regula-  
15      tions shall provide a process under which—

16           “(1) individuals eligible to enroll as of a month  
17      are permitted to pre-enroll during a prior month  
18      within an enrollment period described in subsection  
19      (b); and

20           “(2) each individual seeking to enroll under sec-  
21      tion 1859(b) is notified, before enrolling, of the de-  
22      ferred monthly premium amount the individual will  
23      be liable for under section 1859C(b) upon attaining  
24      65 years of age as determined under section  
25      1859B(c)(3).

1       **“(b) ENROLLMENT PERIODS.—**

2           **“(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—**In  
3           the case of individuals eligible to enroll under this  
4           part under section 1859(b)—

5           **“(A) INITIAL ENROLLMENT PERIOD.—**If  
6           the individual is eligible to enroll under such  
7           section for July 1999, the enrollment period  
8           shall begin on May 1, 1999, and shall end on  
9           August 31, 1999. Any such enrollment before  
10          July 1, 1999, is conditioned upon compliance  
11          with the conditions of eligibility for July 1999.

12          **“(B) SUBSEQUENT PERIODS.—**If the indi-  
13          vidual is eligible to enroll under such section for  
14          a month after July 1999, the enrollment period  
15          shall begin on the first day of the second month  
16          before the month in which the individual first is  
17          eligible to so enroll and shall end four months  
18          later. Any such enrollment before the first day  
19          of the third month of such enrollment period is  
20          conditioned upon compliance with the condi-  
21          tions of eligibility for such third month.

22          **“(2) AUTHORITY TO CORRECT FOR GOVERN-  
23          MENT ERRORS.—**The provisions of section 1837(h)  
24          apply with respect to enrollment under this part in

1       the same manner as they apply to enrollment under  
2       part B.

3       “(c) DATE COVERAGE BEGINS.—

4           “(1) IN GENERAL.—The period during which  
5       an individual is entitled to benefits under this part  
6       shall begin as follows, but in no case earlier than  
7       July 1, 1999:

8           “(A) In the case of an individual who en-  
9       rolls (including pre-enrolls) before the month in  
10      which the individual satisfies eligibility for en-  
11      rollment under section 1859, the first day of  
12      such month of eligibility.

13           “(B) In the case of an individual who en-  
14       rolls during or after the month in which the in-  
15       dividual first satisfies eligibility for enrollment  
16       under such section, the first day of the follow-  
17       ing month.

18           “(2) AUTHORITY TO PROVIDE FOR PARTIAL  
19       MONTHS OF COVERAGE.—Under regulations, the  
20       Secretary may, in the Secretary’s discretion, provide  
21       for coverage periods that include portions of a  
22       month in order to avoid lapses of coverage.

23           “(3) LIMITATION ON PAYMENTS.—No payments  
24       may be made under this title with respect to the ex-  
25       penses of an individual enrolled under this part un-

1 less such expenses were incurred by such individual  
2 during a period which, with respect to the individual,  
3 is a coverage period under this section.

4       “(d) TERMINATION OF COVERAGE.—

5           “(1) IN GENERAL.—An individual’s coverage  
6 period under this part shall continue until the indi-  
7 vidual’s enrollment has been terminated at the earli-  
8 est of the following:

9           “(A) GENERAL PROVISIONS.—

10              “(i) NOTICE.—The individual files no-  
11 tice (in a form and manner prescribed by  
12 the Secretary) that the individual no  
13 longer wishes to participate in the insur-  
14 ance program under this part.

15              “(ii) NONPAYMENT OF PREMIUMS.—  
16 The individual fails to make payment of  
17 premiums required for enrollment under  
18 this part.

19              “(iii) MEDICARE ELIGIBILITY.—The  
20 individual becomes entitled to benefits  
21 under part A or enrolled under part B  
22 (other than by reason of this part).

23           “(B) TERMINATION BASED ON AGE.—The  
24 individual attains 65 years of age.

25           “(2) EFFECTIVE DATE OF TERMINATION.—

1           “(A) NOTICE.—The termination of a cov-  
2 erage period under paragraph (1)(A)(i) shall  
3 take effect at the close of the month following  
4 for which the notice is filed.

5           “(B) NONPAYMENT OF PREMIUM.—The  
6 termination of a coverage period under para-  
7 graph (1)(A)(ii) shall take effect on a date de-  
8 termined under regulations, which may be de-  
9 termined so as to provide a grace period in  
10 which overdue premiums may be paid and cov-  
11 erage continued. The grace period determined  
12 under the preceding sentence shall not exceed  
13 60 days; except that it may be extended for an  
14 additional 30 days in any case where the Sec-  
15 retary determines that there was good cause for  
16 failure to pay the overdue premiums within  
17 such 60-day period.

18           “(C) AGE OR MEDICARE ELIGIBILITY.—  
19 The termination of a coverage period under  
20 paragraph (1)(A)(iii) or (1)(B) shall take effect  
21 as of the first day of the month in which the  
22 individual attains 65 years of age or becomes  
23 entitled to benefits under part A or enrolled for  
24 benefits under part B (other than by reason of  
25 this part).

## 1 "SEC. 1859B. PREMIUMS.

## 2 "(a) AMOUNT OF MONTHLY PREMIUMS.—

3           "(1) BASE MONTHLY PREMIUMS.—The Sec-  
4 retary shall, during September of each year (begin-  
5 ning with 1998), determine the following premium  
6 rates which shall apply with respect to coverage pro-  
7 vided under this title for any month in the succeed-  
8 ing year:

9           "(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base  
10 monthly premium for individuals 62 years of  
11 age or older, equal to  $\frac{1}{12}$  of the base annual  
12 premium rate computed under subsection (b)  
13 for each premium area.

14           "(2) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Sec-  
15 retary shall, during September of each year (begin-  
16 ning with 1998), determine under subsection (c) the  
17 amount of deferred monthly premiums that shall  
18 apply with respect to individuals who first obtain  
19 coverage under this part under section 1859(b) in  
20 the succeeding year.

21           "(3) ESTABLISHMENT OF PREMIUM AREAS.—  
22 For purposes of this part, the term 'premium area'  
23 means such an area as the Secretary shall specify to  
24 carry out this part. The Secretary from time to time

1 may change the boundaries of such premium areas.  
2 The Secretary shall seek to minimize the number of  
3 such areas specified under this paragraph.

4 “(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62

5 YEARS OF AGE OR OLDER.—

6 “(1) NATIONAL, PER CAPITA AVERAGE.—The  
7 Secretary shall estimate the average, annual per  
8 capita amount that would be payable under this title  
9 with respect to individuals residing in the United  
10 States who meet the requirement of section  
11 1859(b)(1)(A) as if all such individuals were eligible  
12 for (and enrolled) under this title during the entire  
13 year (and assuming that section 1862(b)(2)(A)(i)  
14 did not apply).

15 “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-  
16 retary shall adjust the amount determined under  
17 paragraph (1) for each premium area (specified  
18 under subsection (a)(3)) in order to take into ac-  
19 count such factors as the Secretary deems appro-  
20 priate and shall limit the maximum premium under  
21 this paragraph in a premium area to assure partici-  
22 pation in all areas throughout the United States.

23 “(3) BASE ANNUAL PREMIUM.—The base an-  
24 nual premium under this subsection for months in a  
25 year for individuals 62 years of age or older residing

1       in a premium area is equal to the average, annual  
2       per capita amount estimated under paragraph (1)  
3       for the year, adjusted for such area under paragraph  
4       (2).

5       “(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS  
6       62 YEARS OF AGE OR OLDER.—The deferred premium  
7       rate for individuals with a group of individuals who obtain  
8       coverage under section 1859(b) in a year shall be com-  
9       puted by the Secretary as follows:

10           “(1) ESTIMATION OF NATIONAL, PER CAPITA  
11           ANNUAL AVERAGE EXPENDITURES FOR ENROLL-  
12           MENT GROUP.—The Secretary shall estimate the av-  
13           erage, per capita annual amount that will be paid  
14           under this part for individuals in such group during  
15           the period of enrollment under section 1859(b). In  
16           making such estimate for coverage beginning in a  
17           year before 2003, the Secretary may base such esti-  
18           mate on the average, per capita amount that would  
19           be payable if the program had been in operation over  
20           a previous period of at least 4 years.

21           “(2) DIFFERENCE BETWEEN ESTIMATED EX-  
22           PENDITURES AND ESTIMATED PREMIUMS.—Based  
23           on the characteristics of individuals in such group,  
24           the Secretary shall estimate during the period of

1 coverage of the group under this part under section  
2 1859(b) the amount by which—

3                 “(A) the amount estimated under para-  
4 graph (1); exceeds

5                 “(B) the average, annual per capita  
6 amount of premiums that will be payable for  
7 months during the year under section 1859C(a)  
8 for individuals in such group (including pre-  
9 miums that would be payable if there were no  
10 terminations in enrollment under clause (i) or  
11 (ii) of section 1859A(d)(1)(A)).

12                 “(3) ACTUARIAL COMPUTATION OF DEFERRED  
13 MONTHLY PREMIUM RATES.—The Secretary shall  
14 determine deferred monthly premium rates for indi-  
15 viduals in such group in a manner so that—

16                 “(A) the estimated actuarial value of such  
17 premiums payable under section 1859C(b), is  
18 equal to

19                 “(B) the estimated actuarial present value  
20 of the differences described in paragraph (2).

21 Such rate shall be computed for each individual in  
22 the group in a manner so that the rate is based on  
23 the number of months between the first month of  
24 coverage based on enrollment under section 1859(b)

1 and the month in which the individual attains 65  
2 years of age.

3 “(4) DETERMINANTS OF ACTUARIAL PRESENT  
4 VALUES.—The actuarial present values described in  
5 paragraph (3) shall reflect—

6 “(A) the estimated probabilities of survival  
7 at ages 62 through 84 for individuals enrolled  
8 during the year; and

9 “(B) the estimated effective average interest  
10 rates that would be earned on investments  
11 held in the trust funds under this title during  
12 the period in question.

13 **“SEC. 1859C. PAYMENT OF PREMIUMS.**

14 “(a) PAYMENT OF BASE MONTHLY PREMIUM.—

15 “(1) IN GENERAL.—The Secretary shall provide  
16 for payment and collection of the base monthly premium,  
17 determined under section 1859B(a)(1) for the age (and age cohort, if applicable) of the individual involved and the premium area in which the individual principally resides, in the same manner as for payment of monthly premiums under section 1840, except that, for purposes of applying this section, any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a

1 reference to the Trust Fund established under sec-  
2 tion 1859D.

3 “(2) PERIOD OF PAYMENT.—In the case of an  
4 individual who participates in the program estab-  
5 lished by this title, the base monthly premium shall  
6 be payable for the period commencing with the first  
7 month of the individual’s coverage period and ending  
8 with the month in which the individual’s coverage  
9 under this title terminates.

10 “(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVI-  
11 VIDUALS COVERED AFTER ATTAINING AGE 62.—

12 “(1) RATE OF PAYMENT.—

13 “(A) IN GENERAL.—In the case of an indi-  
14 vidual who is covered under this part for a  
15 month pursuant to an enrollment under section  
16 1859(b), subject to subparagraph (B), the indi-  
17 vidual is liable for payment of a deferred pre-  
18 mium in each month during the period de-  
19 scribed in paragraph (2) in an amount equal to  
20 the full deferred monthly premium rate deter-  
21 mined for the individual under section  
22 1859B(c).

23 “(B) SPECIAL RULES FOR THOSE WHO  
24 DISENROLL EARLY.—

1                 “(i) IN GENERAL.—If such an individual’s enrollment under such section is terminated under clause (i) or (ii) of section  
2                 1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise  
3                 established under this paragraph shall be pro-rated to reflect the number of months  
4                 of coverage under this part under such enrollment compared to the maximum number  
5                 of months of coverage that the individual would have had if the enrollment were  
6                 not so terminated.

7                 “(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying  
8                 clause (i), the number of months of coverage (if not a multiple of 12) shall be rounded to the next highest multiple of 12  
9                 months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number  
10                 of months of coverage that the individual would have had if the enrollment were not  
11                 so terminated.

12                 “(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the pe-

1       riod beginning with the first month in which the in-  
2       dividual has attained 65 years of age and ending  
3       with the month before the month in which the indi-  
4       vidual attains 85 years of age.

5       “(3) COLLECTION.—In the case of an individual  
6       who is liable for a premium under this subsection,  
7       the amount of the premium shall be collected in the  
8       same manner as the premium for enrollment under  
9       such part is collected under section 1840, except  
10      that any reference in such section to the Federal  
11      Supplementary Medical Insurance Trust Fund is  
12      deemed to be a reference to the Medicare Early Ac-  
13      cess Trust Fund established under section 1859D.

14       “(c) APPLICATION OF CERTAIN PROVISIONS.—The  
15      provisions of section 1840 (other than subsection (h))  
16      shall apply to premiums collected under this section in the  
17      same manner as they apply to premiums collected under  
18      part B, except that any reference in such section to the  
19      Federal Supplementary Medical Insurance Trust Fund is  
20      deemed a reference to the Trust Fund established under  
21      section 1859D.

22       **“SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.**

23       “(a) ESTABLISHMENT OF TRUST FUND.—

24       “(1) IN GENERAL.—There is hereby created on  
25      the books of the Treasury of the United States a

1 trust fund to be known as the ‘Medicare Early Ac-  
2 cess Trust Fund’ (in this section referred to as the  
3 ‘Trust Fund’). The Trust Fund shall consist of such  
4 gifts and bequests as may be made as provided in  
5 section 201(i)(1) and such amounts as may be de-  
6 posited in, or appropriated to, such fund as provided  
7 in this title.

8       “(2) PREMIUMS.—Premiums collected under  
9 section 1859B shall be transferred to the Trust  
10 Fund.

11       “(3) TRANSFER OF SAVINGS FROM NEW FRAUD  
12 AND ABUSE INITIATIVES.—

13       “(A) IN GENERAL.—There is hereby trans-  
14 ferred to the Trust Fund from the Federal  
15 Hospital Insurance Trust Fund and from the  
16 Federal Supplementary Medical Insurance  
17 Trust Fund amounts equivalent to the amounts  
18 (specified under subparagraph (B)) of the re-  
19 ductions in expenditures under such respective  
20 trust fund as may be attributable to the enact-  
21 ment of the Medicare Fraud and Overpayment  
22 Act of 1998.

23       “(B) USE OF CBO ESTIMATES.—For each  
24 fiscal year during the 10-fiscal-year period be-  
25 ginning with fiscal year 1999, the amounts

1       under subparagraph (A) shall be the amounts  
2       described in such subparagraph as determined  
3       by the Congressional Budget Office at the time  
4       of, and in connection with, the enactment of the  
5       Medicare Early Access Act of 1998. For subse-  
6       quent fiscal years, the amounts under subpara-  
7       graph (A) shall be the amount determined  
8       under this subparagraph for the previous fiscal  
9       year increased by the same percentage as the  
10      percentage increase in aggregate expenditures  
11      under this title from the second previous fiscal  
12      year to the previous fiscal year.

13      “(b) INCORPORATION OF PROVISIONS.—

14       “(1) IN GENERAL.—Subject to paragraph (2),  
15       subsections (b) through (i) of section 1841 shall  
16       apply with respect to the Trust Fund and this title  
17       in the same manner as they apply with respect to  
18       the Federal Supplementary Medical Insurance Trust  
19       Fund and part B, respectively.

20       “(2) MISCELLANEOUS REFERENCES.—In apply-  
21       ing provisions of section 1841 under paragraph  
22       (1)—

23           “(A) any reference in such section to ‘this  
24           part’ is construed to refer to this part D;

1               “(B) any reference in section 1841(h) to  
2               section 1840(d) and in section 1841(i) to sec-  
3               tions 1840(b)(1) and 1842(g) are deemed ref-  
4               erences to comparable authority exercised under  
5               this part; and

6               “(C) payments may be made under section  
7               1841(g) to the Trust Funds under sections  
8               1817 and 1841 as reimbursement to such funds  
9               for payments they made for benefits provided  
10              under this part.

11       **“SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.**

12       “(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—  
13       The Board of Trustees of the Medicare Early Access  
14       Trust Fund under section 1859D(b)(1) shall report on an  
15       annual basis to Congress concerning the status of the  
16       Trust Fund and the need for adjustments in the program  
17       under this part to maintain financial solvency of the pro-  
18       gram under this part.

19       “(b) PERIODIC GAO REPORTS.—The Comptroller  
20       General of the United States shall periodically submit to  
21       Congress reports on the adequacy of the financing of cov-  
22       erage provided under this part. The Comptroller General  
23       shall include in such report such recommendations for ad-  
24       justments in such financing and coverage as the Comptrol-

1     ler General deems appropriate in order to maintain finan-  
2     cial solvency of the program under this part.

3     **"SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS."**

4         "(a) TREATMENT FOR PURPOSES OF TITLE.—Ex-  
5     cept as otherwise provided in this part—

6             "(1) individuals enrolled under this part shall  
7     be treated for purposes of this title as though the in-  
8     dividual were entitled to benefits under part A and  
9     enrolled under part B; and

10             "(2) benefits described in section 1859 shall be  
11     payable under this title to such individuals in the  
12     same manner as if such individuals were so entitled  
13     and enrolled.

14         "(b) NOT TREATED AS MEDICARE PROGRAM FOR  
15     PURPOSES OF MEDICAID PROGRAM.—For purposes of ap-  
16     plying title XIX (including the provision of medicare cost-  
17     sharing assistance under such title), an individual who is  
18     enrolled under this part shall not be treated as being enti-  
19     tled to benefits under this title.

20         "(c) NOT TREATED AS MEDICARE PROGRAM FOR  
21     PURPOSES OF COBRA CONTINUATION PROVISIONS.—In  
22     applying a COBRA continuation provision (as defined in  
23     section 2791(d)(4) of the Public Health Service Act), any  
24     reference to an entitlement to benefits under this title

1 shall not be construed to include entitlement to benefits  
2 under this title pursuant to the operation of this part.”.

3       (b) CONFORMING AMENDMENTS TO SOCIAL SECU-  
4 RITY ACT PROVISIONS.—

5           (1) Section 201(i)(1) of the Social Security Act  
6       (42 U.S.C. 401(i)(1)) is amended by striking “or the  
7       Federal Supplementary Medical Insurance Trust  
8       Fund” and inserting “the Federal Supplementary  
9       Medical Insurance Trust Fund, and the Medicare  
10      Early Access Trust Fund”.

11          (2) Section 201(g)(1)(A) of such Act (42  
12       U.S.C. 401(g)(1)(A)) is amended by striking “and  
13       the Federal Supplementary Medical Insurance Trust  
14       Fund established by title XVIII” and inserting “,  
15       the Federal Supplementary Medical Insurance Trust  
16       Fund, and the Medicare Early Access Trust Fund  
17       established by title XVIII”.

18          (3) Section 1820(i) of such Act (42 U.S.C.  
19       1395i–4(i)) is amended by striking “part D” and in-  
20       serting “part E”.

21          (4) Part C of title XVIII of such Act is amend-  
22       ed—

23           (A) in section 1851(a)(2)(B) (42 U.S.C.  
24       1395w–21(a)(2)(B)), by striking “1859(b)(3)”  
25       and inserting “1858(b)(3)”÷;

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w-21(a)(2)(C)), by striking “1859(b)(2)” and inserting “1858(b)(2);

(C) in section 1852(a)(1) (42 U.S.C. 1395w-22(a)(1)), by striking "1859(b)(3)" and inserting "1858(b)(3);

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking "1859(b)(2)(B)" and inserting "1858(b)(2)(B)";

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w-23(a)(1)(A)), by striking "1859(e)(4)" and inserting "1858(e)(4); and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w-23(a)(3)(D)), by striking “1859(e)(4)” and inserting “1858(e)(4)”.

(5) Section 1853(c) of such Act (42 U.S.C. 5w-23(c)) is amended—

(A) in paragraph (1), by striking "or (7)" and inserting ". (7), or (8)", and

(B) by adding at the end the following:

“(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individuals entitled to benefits under part D, the Secretary shall provide for an appropriate adjustment in the

1 Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such part and the population under parts A and B.”.

5 (c) OTHER CONFORMING AMENDMENTS.—

6 (1) Section 138(b)(4) of the Internal Revenue  
7 Code of 1986 is amended by striking “1859(b)(3)”  
8 and inserting “1858(b)(3)”.

9 (2)(A) Section 602(2)(D)(ii) of the Employee  
10 Retirement Income Security Act of 1974 (29 U.S.C.  
11 1162(2)) is amended by inserting “(not including an  
12 individual who is so entitled pursuant to enrollment  
13 under section 1859A)” after “Social Security Act”.

14 (B) Section 2202(2)(D)(ii) of the Public Health  
15 Service Act (42 U.S.C. 300bb-2(2)(D)(ii)) is amended  
16 by inserting “(not including an individual who is  
17 so entitled pursuant to enrollment under section  
18 1859A)” after “Social Security Act”.

19 (C) Section 4980B(f)(2)(B)(i)(V) of the Internal  
20 Revenue Code of 1986 is amended by inserting  
21 “(not including an individual who is so entitled pur-  
22 suant to enrollment under section 1859A)” after  
23 “Social Security Act”.

1   **TITLE II—ACCESS TO MEDICARE**  
2   **BENEFITS FOR DISPLACED**  
3   **WORKERS 55-TO-62 YEARS OF**  
4   **AGE**

5   **SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED**  
6                 **WORKERS 55-TO-62 YEARS OF AGE.**

7       (a) ELIGIBILITY.—Section 1859 of the Social Secu-  
8      rity Act, as inserted by section 101(a)(2), is amended by  
9      adding at the end the following new subsection:

10      “(c) DISPLACED WORKERS AND SPOUSES.—

11          “(1) DISPLACED WORKERS.—Subject to para-  
12       graph (3), an individual who meets the following re-  
13       quirements with respect to a month is eligible to en-  
14       roll under this part with respect to such month:

15           “(A) AGE.—As of the last day of the  
16       month, the individual has attained 55 years of  
17       age, but has not attained 62 years of age.

18           “(B) MEDICARE ELIGIBILITY (BUT FOR  
19       AGE).—The individual would be eligible for ben-  
20       efits under part A or part B for the month if  
21       the individual were 65 years of age.

22           “(C) LOSS OF EMPLOYMENT-BASED COV-  
23       ERAGE.—

24           “(i) ELIGIBLE FOR UNEMPLOYMENT  
25       COMPENSATION.—The individual meets the

1 requirements relating to period of covered  
2 employment and conditions of separation  
3 from employment to be eligible for unem-  
4 ployment compensation (as defined in sec-  
5 tion 85(b) of the Internal Revenue Code of  
6 1986), based on a separation from employ-  
7 ment occurring on or after January 1,  
8 1998. The previous sentence shall not be  
9 construed as requiring the individual to be  
10 receiving such unemployment compensa-  
11 tion.

12                 “(ii) LOSS OF EMPLOYMENT-BASED  
13 COVERAGE.—Immediately before the time  
14 of such separation of employment, the indi-  
15 vidual was covered under a group health  
16 plan on the basis of such employment, and,  
17 because of such loss, is no longer eligible  
18 for coverage under such plan (including  
19 such eligibility based on the application of  
20 a Federal or State COBRA continuation  
21 provision) as of the last day of the month  
22 involved.

23                 “(iii) PREVIOUS CREDITABLE COV-  
24 ERAGE FOR AT LEAST 1 YEAR.—As of the  
25 date on which the individual loses coverage

1                         described in clause (ii), the aggregate of  
2                         the periods of creditable coverage (as de-  
3                         termined under section 2701(c) of the  
4                         Public Health Service Act) is 12 months or  
5                         longer.

6                         “(D) EXHAUSTION OF AVAILABLE COBRA  
7                         CONTINUATION BENEFITS.—

8                         “(i) IN GENERAL.—In the case of an  
9                         individual described in clause (ii) for a  
10                         month described in clause (iii)—

11                         “(I) the individual (or spouse)  
12                         elected coverage described in clause  
13                         (ii); and

14                         “(II) the individual (or spouse)  
15                         has continued such coverage for all  
16                         months described in clause (iii) in  
17                         which the individual (or spouse) is eli-  
18                         gible for such coverage.

19                         “(ii) INDIVIDUALS TO WHOM COBRA  
20                         CONTINUATION COVERAGE MADE AVAIL-  
21                         ABLE.—An individual described in this  
22                         clause is an individual—

23                         “(I) who was offered coverage  
24                         under a Federal or State COBRA  
25                         continuation provision at the time of

1                   loss of coverage eligibility described in  
2                   subparagraph (C)(ii); or

3                   “(II) whose spouse was offered  
4                   such coverage in a manner that per-  
5                   mitted coverage of the individual at  
6                   such time.

7                   “(iii) MONTHS OF POSSIBLE COBRA  
8                   CONTINUATION COVERAGE.—A month de-  
9                   scribed in this clause is a month for which  
10                  an individual described in clause (ii) could  
11                  have had coverage described in such clause  
12                  as of the last day of the month if the indi-  
13                  vidual (or the spouse of the individual, as  
14                  the case may be) had elected such coverage  
15                  on a timely basis.

16                  “(E) NOT ELIGIBLE FOR COVERAGE  
17                  UNDER FEDERAL HEALTH INSURANCE PRO-  
18                  GRAM OR GROUP HEALTH PLANS.—The individ-  
19                  ual is not eligible for benefits or coverage under  
20                  a Federal health insurance program or under a  
21                  group health plan (whether on the basis of the  
22                  individual’s employment or employment of the  
23                  individual’s spouse) as of the last day of the  
24                  month involved.

1                 “(2) SPOUSE OF DISPLACED WORKER.—Subject  
2         to paragraph (3), an individual who meets the fol-  
3         lowing requirements with respect to a month is eligi-  
4         ble to enroll under this part with respect to such  
5         month:

6                 “(A) AGE.—As of the last day of the  
7         month, the individual has not attained 62 years  
8         of age.

9                 “(B) MARRIED TO DISPLACED WORKER.—  
10         The individual is the spouse of an individual at  
11         the time the individual enrolls under this part  
12         under paragraph (1) and loses coverage de-  
13         scribed in paragraph (1)(C)(ii) because the in-  
14         dividual’s spouse lost such coverage.

15                 “(C) MEDICARE ELIGIBILITY (BUT FOR  
16         AGE); EXHAUSTION OF ANY COBRA CONTINU-  
17         ATION COVERAGE; AND NOT ELIGIBLE FOR COV-  
18         ERAGE UNDER FEDERAL HEALTH INSURANCE  
19         PROGRAM OR GROUP HEALTH PLAN.—The indi-  
20         vidual meets the requirements of subparagraphs  
21         (B), (D), and (E) of paragraph (1).

22                 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY  
23         AFFECTS CONTINUED ELIGIBILITY.—For provision  
24         that terminates enrollment under this section in the  
25         case of an individual who becomes eligible for cov-

1       erage under a group health plan or under a Federal  
2       health insurance program, see section  
3       1859A(d)(1)(C).

4       “(4) REENROLLMENT PERMITTED.—Nothing in  
5       this subsection shall be construed as preventing an  
6       individual who, after enrolling under this subsection,  
7       terminates such enrollment from subsequently re-  
8       enrolling under this subsection if the individual is el-  
9       igible to enroll under this subsection at that time.”.

10      (b) ENROLLMENT.—Section 1859A of such Act, as  
11     so inserted, is amended—

12       (1) in subsection (a), by striking “and” at the  
13       end of paragraph (1), by striking the period at the  
14       end of paragraph (2) and inserting “; and”, and by  
15       adding at the end the following new paragraph:

16       “(3) individuals whose coverage under this part  
17       would terminate because of subsection (d)(1)(B)(ii)  
18       are provided notice and an opportunity to continue  
19       enrollment in accordance with section  
20       1859E(e)(1).”;

21       (2) in subsection (b), by inserting after Not-  
22       withstanding any other provision of law, (1) the fol-  
23       lowing:

24       “(2) DISPLACED WORKERS AND SPOUSES.—In  
25       the case of individuals eligible to enroll under this

1 part under section 1859(c), the following rules  
2 apply:

3                 “(A) INITIAL ENROLLMENT PERIOD.—If  
4 the individual is first eligible to enroll under  
5 such section for July 1999, the enrollment pe-  
6 riod shall begin on May 1, 1999, and shall end  
7 on August 31, 1999. Any such enrollment be-  
8 fore July 1, 1999, is conditioned upon compli-  
9 ance with the conditions of eligibility for July  
10 1999.

11                 “(B) SUBSEQUENT PERIODS.—If the indi-  
12 vidual is eligible to enroll under such section for  
13 a month after July 1999, the enrollment period  
14 based on such eligibility shall begin on the first  
15 day of the second month before the month in  
16 which the individual first is eligible to so enroll  
17 (or reenroll) and shall end four months later.”;

18 (3) in subsection (d)(1), by amending subpara-  
19 graph (B) to read as follows:

20                 “(B) TERMINATION BASED ON AGE.—

21                         “(i) AT AGE 65.—Subject to clause  
22 (ii), the individual attains 65 years of age.

23                         “(ii) AT AGE 62 FOR DISPLACED  
24 WORKERS AND SPOUSES.—In the case of  
25 an individual enrolled under this part pur-

1 suant to section 1859(c), subject to sub-  
2 section (a)(1), the individual attains 62  
3 years of age.”;

4 (4) in subsection (d)(1), by adding at the end  
5 the following new subparagraph:

6 “(C) OBTAINING ACCESS TO EMPLOYMENT-  
7 BASED COVERAGE OR FEDERAL HEALTH INSUR-  
8 ANCE PROGRAM FOR INDIVIDUALS UNDER 62  
9 YEARS OF AGE.—In the case of an individual  
10 who has not attained 62 years of age, the indi-  
11 vidual is covered (or eligible for coverage) as a  
12 participant or beneficiary under a group health  
13 plan or under a Federal health insurance pro-  
14 gram.”;

15 (5) in subsection (d)(2), by amending subpara-  
16 graph (C) to read as follows:

17 “(C) AGE OR MEDICARE ELIGIBILITY.—

18 “(i) IN GENERAL.—The termination  
19 of a coverage period under paragraph  
20 (1)(A)(iii) or (1)(B)(i) shall take effect as  
21 of the first day of the month in which the  
22 individual attains 65 years of age or be-  
23 comes entitled to benefits under part A or  
24 enrolled for benefits under part B.

1                 “(ii) DISPLACED WORKERS.—The ter-  
2 mination of a coverage period under para-  
3 graph (1)(B)(ii) shall take effect as of the  
4 first day of the month in which the individ-  
5 ual attains 62 years of age, unless the in-  
6 dividual has enrolled under this part pur-  
7 suant to section 1859(b) and section  
8 1859E(c)(1).”; and

9                 (6) in subsection (d)(2), by adding at the end  
10 the following new subparagraph:

11                 “(D) ACCESS TO COVERAGE.—The termi-  
12 nation of a coverage period under paragraph  
13 (1)(C) shall take effect on the date on which  
14 the individual is eligible to begin a period of  
15 creditable coverage (as defined in section  
16 2701(c) of the Public Health Service Act)  
17 under a group health plan or under a Federal  
18 health insurance program.”.

19                 (c) PREMIUMS.—Section 1859B of such Act, as so  
20 inserted, is amended—

21                 (1) in subsection (a)(1), by adding at the end  
22 the following:

23                 “(B) BASE MONTHLY PREMIUM FOR INDIVI-  
24 VIDUALS UNDER 62 YEARS OF AGE.—A base  
25 monthly premium for individuals under 62

1       years of age, equal to  $\frac{1}{12}$  of the base annual  
2       premium rate computed under subsection (d)(3)  
3       for each premium area and age cohort.”; and  
4       (2) by adding at the end the following new sub-  
5       section:

6       **“(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS  
7       UNDER 62 YEARS OF AGE.—**

8       “**(1) NATIONAL, PER CAPITA AVERAGE FOR AGE  
9       GROUPS.—**

10       “**(A) ESTIMATE OF AMOUNT.—**The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(c)(1)(A) within each of the age cohorts established under subparagraph (B) as if all such individuals within such cohort were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

21       “**(B) AGE COHORTS.—**For purposes of subparagraph (A), the Secretary shall establish separate age cohorts in 5 year age increments for individuals who have not attained 60 years

1           of ages and a separate cohort for individuals  
2           who have attained 60 years of age.

3           “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-  
4           retary shall adjust the amount determined under  
5           paragraph (1)(A) for each premium area (specified  
6           under subsection (a)(3)) in the same manner and to  
7           the same extent as the Secretary provides for adjust-  
8           ments under subsection (b)(2).

9           “(3) BASE ANNUAL PREMIUM.—The base an-  
10          nual premium under this subsection for months in a  
11          year for individuals in an age cohort under para-  
12          graph (1)(B) in a premium area is equal to 165 per-  
13          cent of the average, annual per capita amount esti-  
14          mated under paragraph (1) for the age cohort and  
15          year, adjusted for such area under paragraph (2).

16           “(4) PRO-RATION OF PREMIUMS TO REFLECT  
17          COVERAGE DURING A PART OF A MONTH.—If the  
18          Secretary provides for coverage of portions of a  
19          month under section 1859A(c)(2), the Secretary  
20          shall pro-rate the premiums attributable to such cov-  
21          erage under this section to reflect the portion of the  
22          month so covered.”.

23           (d) ADMINISTRATIVE PROVISIONS.—Section 1859F  
24          of such Act, as so inserted, is amended by adding at the  
25          end the following:

1       “(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

2           “(1) PROCESS FOR CONTINUED ENROLLMENT  
3           OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF  
4           AGE.—The Secretary shall provide a process for the  
5           continuation of enrollment of individuals whose en-  
6           rollment under section 1859(c) would be terminated  
7           upon attaining 62 years of age. Under such process  
8           such individuals shall be provided appropriate and  
9           timely notice before the date of such termination  
10          and of the requirement to enroll under this part pur-  
11          suant to section 1859(b) in order to continue entitle-  
12          ment to benefits under this title after attaining 62  
13          years of age.

14           “(2) ARRANGEMENTS WITH STATES FOR DE-  
15          TERMINATIONS RELATING TO UNEMPLOYMENT COM-  
16          PENSATION ELIGIBILITY.—The Secretary may pro-  
17          vide for appropriate arrangements with States for  
18          the determination of whether individuals in the State  
19          meet or would meet the requirements of section  
20          1859(c)(1)(C)(i).”.

21       (e) CONFORMING AMENDMENT TO HEADING TO  
22 PART.—The heading of part D of title XVIII of the Social  
23 Security Act, as so inserted, is amended by striking “62”  
24 and inserting “55”.

1       **TITLE III—COBRA PROTECTION**  
2                   **FOR EARLY RETIREES**  
3       **Subtitle A—Amendments to the**  
4                   **Employee Retirement Income**  
5                   **Security Act of 1974**

6       **SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
7                   **RETIRED WORKERS WHO LOSE RETIREE**  
8                   **HEALTH COVERAGE.**

9           (a)    **ESTABLISHMENT OF NEW QUALIFYING**  
10          **EVENT.—**

11               (1) **IN GENERAL.**—Section 603 of the Employee  
12              Retirement Income Security Act of 1974 (29 U.S.C.  
13              1163) is amended by inserting after paragraph (6)  
14              the following new paragraph:

15               “(7) The termination or substantial reduction  
16              in benefits (as defined in section 607(7)) of group  
17              health plan coverage as a result of plan changes or  
18              termination in the case of a covered employee who  
19              is a qualified retiree.”.

20               (2) **QUALIFIED RETIREE; QUALIFIED BENE-**  
21              **FICIARY; AND SUBSTANTIAL REDUCTION DE-**  
22              **FINED.**—Section 607 of such Act (29 U.S.C. 1167)  
23              is amended—

24               (A) in paragraph (3)—

(i) in subparagraph (A), by inserting  
“except as otherwise provided in this para-  
graph,” after “means,”; and

**“(D) SPECIAL RULE FOR QUALIFYING RE-**

7 TIREES AND DEPENDENTS.—In the case of a  
8 qualifying event described in section 603(7), the  
9 term ‘qualified beneficiary’ means a qualified  
10 retiree and any other individual who, on the day  
11 before such qualifying event, is a beneficiary  
12 under the plan on the basis of the individual’s  
13 relationship to such qualified retiree.”; and

14 (B) by adding at the end the following new  
15 paragraphs:

16                 “(6) QUALIFIED RETIREE.—The term ‘qualified  
17                 retiree’ means, with respect to a qualifying event de-  
18                 scribed in section 603(7), a covered employee who,  
19                 at the time of the event—

“(A) has attained 55 years of age; and

21                         “(B) was receiving group health coverage  
22                         under the plan by reason of the retirement of  
23                         the covered employee.

24           “(7) SUBSTANTIAL REDUCTION.—The term  
25       ‘substantial reduction’—

1           “(A) means, as determined under regula-  
2 tions of the Secretary and with respect to a  
3 qualified beneficiary, a reduction in the average  
4 actuarial value of benefits under the plan  
5 (through reduction or elimination of benefits,  
6 an increase in premiums, deductibles, copay-  
7 ments, and coinsurance, or any combination  
8 thereof), since the date of commencement of  
9 coverage of the beneficiary by reason of the re-  
10 tirement of the covered employee (or, if later,  
11 January 6, 1998), in an amount equal to at  
12 least 50 percent of the total average actuarial  
13 value of the benefits under the plan as of such  
14 date (taking into account an appropriate ad-  
15 justment to permit comparison of values over  
16 time); and

17           “(B) includes an increase in premiums re-  
18 quired to an amount that exceeds the premium  
19 level described in the fourth sentence of section  
20 602(3).”.

21           (b) DURATION OF COVERAGE THROUGH AGE 65.—

22       Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is  
23 amended—

24           (1) in clause (ii), by inserting “or 603(7)” after  
25 “603(6);”;

1                         (2) in clause (iv), by striking "or 603(6)" and  
2                         inserting ", 603(6), or 603(7);"  
3                         (3) by redesignating clause (iv) as clause (vi);  
4                         (4) by redesignating clause (v) as clause (iv)  
5                         and by moving such clause to immediately follow  
6                         clause (iii); and  
7                         (5) by inserting after such clause (iv) the fol-  
8                         lowing new clause:

9                         “(v) SPECIAL RULE FOR CERTAIN DE-  
10                         PENDENTS IN CASE OF TERMINATION OR  
11                         SUBSTANTIAL REDUCTION OF RETIREE  
12                         HEALTH COVERAGE.—In the case of a  
13                         qualifying event described in section  
14                         603(7), in the case of a qualified bene-  
15                         ficiary described in section 607(3)(D) who  
16                         is not the qualified retiree or spouse of  
17                         such retiree, the later of—

18                         “(I) the date that is 36 months  
19                         after the earlier of the date the qual-  
20                         ified retiree becomes entitled to bene-  
21                         fits under title XVIII of the Social Se-  
22                         curity Act, or the date of the death of  
23                         the qualified retiree; or

1                         “(II) the date that is 36 months  
2                         after the date of the qualifying  
3                         event.”.

4         (c) TYPE OF COVERAGE IN CASE OF TERMINATION  
5     OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-  
6     ERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1))  
7     is amended—

8                         (1) by striking “The coverage” and inserting  
9                         the following:

10                         “(A) IN GENERAL.—Except as provided in  
11                         subparagraph (B), the coverage”; and  
12                         (2) by adding at the end the following:

13                         “(B) CERTAIN RETIREES.—In the case of  
14                         a qualifying event described in section 603(7),  
15                         in applying the first sentence of subparagraph  
16                         (A) and the fourth sentence of paragraph (3),  
17                         the coverage offered that is the most prevalent  
18                         coverage option (as determined under regula-  
19                         tions of the Secretary) continued under the  
20                         group health plan (or, if none, under the most  
21                         prevalent other plan offered by the same plan  
22                         sponsor) shall be treated as the coverage de-  
23                         scribed in such sentence, or (at the option of  
24                         the plan and qualified beneficiary) such other

1           coverage option as may be offered and elected  
2           by the qualified beneficiary involved.”.

3         (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
4   Section 602(3) of such Act (29 U.S.C. 1162(3)) is amend-  
5   ed by adding at the end the following new sentence: “In  
6   the case of an individual provided continuation coverage  
7   by reason of a qualifying event described in section  
8   603(7), any reference in subparagraph (A) of this para-  
9   graph to ‘102 percent of the applicable premium’ is  
10   deemed a reference to ‘125 percent of the applicable pre-  
11   mium for employed individuals (and their dependents, if  
12   applicable) for the coverage option referred to in para-  
13   graph (1)(B)’.”.

14         (e) NOTICE.—Section 606(a) of such Act (29 U.S.C.  
15   1166) is amended—

16                 (1) in paragraph (4)(A), by striking “or (6)”  
17                 and inserting “(6), or (7)”; and

18                 (2) by adding at the end the following:  
19                 “The notice under paragraph (4) in the case of a qualify-  
20                 ing event described in section 603(7) shall be provided at  
21                 least 90 days before the date of the qualifying event.”.

22         (f) EFFECTIVE DATES.—

23                 (1) IN GENERAL.—The amendments made by  
24                 this section (other than subsection (e)(2)) shall  
25                 apply to qualifying events occurring on or after Jan-

uary 6, 1998. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

## **Subtitle B—Amendments to the Public Health Service Act**

### **SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.**

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by inserting after paragraph (5) the following new paragraph:

“(6) The termination or substantial reduction in benefits (as defined in section 2208(6)) of group health plan coverage as a result of plan changes or

1 termination in the case of a covered employee who  
2 is a qualified retiree.”.

3 (2) QUALIFIED RETIREE; QUALIFIED BENE-  
4 FICIARY; AND SUBSTANTIAL REDUCTION DE-  
5 FINED.—Section 2208 of such Act (42 U.S.C.  
6 300bb-8) is amended—

7 (A) in paragraph (3)—

8 (i) in subparagraph (A), by inserting  
9 “except as otherwise provided in this para-  
10 graph,” after “means,”; and

11 (ii) by adding at the end the following  
12 new subparagraph:

13 “(C) SPECIAL RULE FOR QUALIFYING RE-  
14 TIREES AND DEPENDENTS.—In the case of a  
15 qualifying event described in section 2203(6),  
16 the term ‘qualified beneficiary’ means a qual-  
17 fied retiree and any other individual who, on  
18 the day before such qualifying event, is a bene-  
19 ficiary under the plan on the basis of the indi-  
20 vidual’s relationship to such qualified retiree.”;  
21 and

22 (B) by adding at the end the following new  
23 paragraphs:

24 “(5) QUALIFIED RETIREE.—The term ‘qualified  
25 retiree’ means, with respect to a qualifying event de-

1 scribed in section 2203(6), a covered employee who,  
2 at the time of the event—

3 “(A) has attained 55 years of age; and

4 “(B) was receiving group health coverage  
5 under the plan by reason of the retirement of  
6 the covered employee.

7 “(6) SUBSTANTIAL REDUCTION.—The term  
8 ‘substantial reduction’—

9 “(A) means, as determined under regula-  
10 tions of the Secretary of Labor and with respect  
11 to a qualified beneficiary, a reduction in the av-  
12 erage actuarial value of benefits under the plan  
13 (through reduction or elimination of benefits,  
14 an increase in premiums, deductibles, copay-  
15 ments, and coinsurance, or any combination  
16 thereof), since the date of commencement of  
17 coverage of the beneficiary by reason of the re-  
18 tirement of the covered employee (or, if later,  
19 January 6, 1998), in an amount equal to at  
20 least 50 percent of the total average actuarial  
21 value of the benefits under the plan as of such  
22 date (taking into account an appropriate ad-  
23 justment to permit comparison of values over  
24 time); and

1                 “(B) includes an increase in premiums re-  
2                 quired to an amount that exceeds the premium  
3                 level described in the fourth sentence of section  
4                 2202(3).”.

5                 (b) DURATION OF COVERAGE THROUGH AGE 65.—  
6     Section 2202(2)(A) of such Act (42 U.S.C. 300bb-  
7     2(2)(A)) is amended—

8                 (1) by redesignating clause (iii) as clause (iv);

9                 and

10                 (2) by inserting after clause (ii) the following  
11                 new clause:

12                 “(iii) SPECIAL RULE FOR CERTAIN  
13                 DEPENDENTS IN CASE OF TERMINATION  
14                 OR SUBSTANTIAL REDUCTION OF RETIREE  
15                 HEALTH COVERAGE.—In the case of a  
16                 qualifying event described in section  
17                 2203(6), in the case of a qualified bene-  
18                 ficiary described in section 2208(3)(C) who  
19                 is not the qualified retiree or spouse of  
20                 such retiree, the later of—

21                 “(I) the date that is 36 months  
22                 after the earlier of the date the qual-  
23                 fied retiree becomes entitled to bene-  
24                 fits under title XVIII of the Social Se-

1                      curity Act, or the date of the death of  
2                      the qualified retiree; or

3                      “(II) the date that is 36 months  
4                      after the date of the qualifying  
5                      event.”.

6                      (c) TYPE OF COVERAGE IN CASE OF TERMINATION  
7                      OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-  
8                      ERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb-  
9                      2(1)) is amended—

10                     (1) by striking “The coverage” and inserting  
11                     the following:

12                     “(A) IN GENERAL.—Except as provided in  
13                     subparagraph (B), the coverage”; and

14                     (2) by adding at the end the following:

15                     “(B) CERTAIN RETIREES.—In the case of  
16                     a qualifying event described in section 2203(6),  
17                     in applying the first sentence of subparagraph  
18                     (A) and the fourth sentence of paragraph (3),  
19                     the coverage offered that is the most prevalent  
20                     coverage option (as determined under regula-  
21                     tions of the Secretary of Labor) continued  
22                     under the group health plan (or, if none, under  
23                     the most prevalent other plan offered by the  
24                     same plan sponsor) shall be treated as the cov-  
25                     erage described in such sentence, or (at the op-

1           tion of the plan and qualified beneficiary) such  
2           other coverage option as may be offered and  
3           elected by the qualified beneficiary involved.”.

4         (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
5   Section 2202(3) of such Act (42 U.S.C. 300bb-2(3)) is  
6  amended by adding at the end the following new sentence:  
7 “In the case of an individual provided continuation cov-  
8 erage by reason of a qualifying event described in section  
9 2203(6), any reference in subparagraph (A) of this para-  
10 graph to ‘102 percent of the applicable premium’ is  
11 deemed a reference to ‘125 percent of the applicable pre-  
12 mium for employed individuals (and their dependents, if  
13 applicable) for the coverage option referred to in para-  
14 graph (1)(B)’.”.

15         (e) NOTICE.—Section 2206(a) of such Act (42 U.S.C.  
16 300bb-6(a)) is amended—

17           (1) in paragraph (4)(A), by striking “or (4)”  
18           and inserting “(4), or (6)”; and

19           (2) by adding at the end the following:

20 “The notice under paragraph (4) in the case of a qualify-  
21 ing event described in section 2203(6) shall be provided  
22 at least 90 days before the date of the qualifying event.”.

23         (f) EFFECTIVE DATES.—

24           (1) IN GENERAL.—The amendments made by  
25 this section (other than subsection (e)(2)) shall

1 apply to qualifying events occurring on or after Jan-  
2 uary 6, 1998. In the case of a qualifying event oc-  
3 curring on or after such date and before the date of  
4 the enactment of this Act, such event shall be  
5 deemed (for purposes of such amendments) to have  
6 occurred on the date of the enactment of this Act.

7 (2) ADVANCE NOTICE OF TERMINATIONS AND  
8 REDUCTIONS.—The amendment made by subsection  
9 (e)(2) shall apply to qualifying events occurring  
10 after the date of the enactment of this Act, except  
11 that in no case shall notice be required under such  
12 amendment before such date.

## 13 **Subtitle C—Amendments to the 14 Internal Revenue Code of 1986**

### 15 **SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN 16 RETIRED WORKERS WHO LOSE RETIREE 17 HEALTH COVERAGE.**

18 (a) ESTABLISHMENT OF NEW QUALIFYING  
19 EVENT.—

20 (1) IN GENERAL.—Section 4980B(f)(3) of the  
21 Internal Revenue Code of 1986 is amended by in-  
22 serting after subparagraph (F) the following new  
23 subparagraph:

24 “(G) The termination or substantial reduc-  
25 tion in benefits (as defined in subsection (g)(6))

1           of group health plan coverage as a result of  
2           plan changes or termination in the case of a  
3           covered employee who is a qualified retiree.”.

4           (2) QUALIFIED RETIREE; QUALIFIED BENE-  
5           FICIARY; AND SUBSTANTIAL REDUCTION DE-  
6           FINED.—Section 4980B(g) of such Code is amend-  
7           ed—

8           (A) in paragraph (1)—

9               (i) in subparagraph (A), by inserting  
10              “except as otherwise provided in this para-  
11              graph,” after “means,”; and

12               (ii) by adding at the end the following  
13              new subparagraph:

14               “(E) SPECIAL RULE FOR QUALIFYING RE-  
15              TIREES AND DEPENDENTS.—In the case of a  
16              qualifying event described in subsection  
17              (f)(3)(G), the term ‘qualified beneficiary’ means  
18              a qualified retiree and any other individual who,  
19              on the day before such qualifying event, is a  
20              beneficiary under the plan on the basis of the  
21              individual’s relationship to such qualified re-  
22              tiree.”; and

23               (B) by adding at the end the following new  
24              paragraphs:

1           “(5) QUALIFIED RETIREE.—The term ‘qualified  
2        retiree’ means, with respect to a qualifying event de-  
3        scribed in subsection (f)(3)(G), a covered employee  
4        who, at the time of the event—

5           “(A) has attained 55 years of age; and

6           “(B) was receiving group health coverage  
7        under the plan by reason of the retirement of  
8        the covered employee.

9           “(6) SUBSTANTIAL REDUCTION.—The term  
10      ‘substantial reduction’—

11           “(A) means, as determined under regula-  
12        tions of the Secretary of Labor and with respect  
13        to a qualified beneficiary, a reduction in the av-  
14        erage actuarial value of benefits under the plan  
15        (through reduction or elimination of benefits,  
16        an increase in premiums, deductibles, copay-  
17        ments, and coinsurance, or any combination  
18        thereof), since the date of commencement of  
19        coverage of the beneficiary by reason of the re-  
20        tirement of the covered employee (or, if later,  
21        January 6, 1998), in an amount equal to at  
22        least 50 percent of the total average actuarial  
23        value of the benefits under the plan as of such  
24        date (taking into account an appropriate ad-

1 justment to permit comparison of values over  
2 time); and

3 “(B) includes an increase in premiums re-  
4 quired to an amount that exceeds the premium  
5 level described in the fourth sentence of sub-  
6 section (f)(2)(C).”.

7 (b) DURATION OF COVERAGE THROUGH AGE 65.—

8 Section 4980B(f)(2)(B)(i) of such Code is amended—

9 (1) in subclause (II), by inserting “or (3)(G)”  
10 after “(3)(F)”;

11 (2) in subclause (IV), by striking “or (3)(F)”  
12 and inserting “, (3)(F), or (3)(G)”;

13 (3) by redesignating subclause (IV) as sub-  
14 clause (VI);

15 (4) by redesignating subclause (V) as subclause  
16 (IV) and by moving such clause to immediately fol-  
17 low subclause (III); and

18 (5) by inserting after such subclause (IV) the  
19 following new subclause:

20 “(V) SPECIAL RULE FOR CER-  
21 TAIN DEPENDENTS IN CASE OF TER-  
22 MINATION OR SUBSTANTIAL REDUC-  
23 TION OF RETIREE HEALTH COV-  
24 ERAGE.—In the case of a qualifying  
25 event described in paragraph (3)(G),

1                   in the case of a qualified beneficiary  
2                   described in subsection (g)(1)(E) who  
3                   is not the qualified retiree or spouse  
4                   of such retiree, the later of—

5                         “(a) the date that is 36  
6                         months after the earlier of the  
7                         date the qualified retiree becomes  
8                         entitled to benefits under title  
9                         XVIII of the Social Security Act,  
10                         or the date of the death of the  
11                         qualified retiree; or

12                         “(b) the date that is 36  
13                         months after the date of the  
14                         qualifying event.”.

15                         (c) TYPE OF COVERAGE IN CASE OF TERMINATION  
16                         OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH Cov-  
17                         ERAGE.—Section 4980B(f)(2)(A) of such Code is amend-  
18                         ed—

19                         (1) by striking “The coverage” and inserting  
20                         the following:

21                         “(i) IN GENERAL.—Except as pro-  
22                         vided in clause (ii), the coverage”; and

23                         (2) by adding at the end the following:

24                         “(ii) CERTAIN RETIREES.—In the  
25                         case of a qualifying event described in

1                   paragraph (3)(G), in applying the first  
2                   sentence of clause (i) and the fourth sen-  
3                   tence of subparagraph (C), the coverage  
4                   offered that is the most prevalent coverage  
5                   option (as determined under regulations of  
6                   the Secretary of Labor) continued under  
7                   the group health plan (or, if none, under  
8                   the most prevalent other plan offered by  
9                   the same plan sponsor) shall be treated as  
10                  the coverage described in such sentence, or  
11                  (at the option of the plan and qualified  
12                  beneficiary) such other coverage option as  
13                  may be offered and elected by the qualified  
14                  beneficiary involved.”.

15                 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
16                 Section 4980B(f)(2)(C) of such Code is amended by add-  
17                 ing at the end the following new sentence: “In the case  
18                 of an individual provided continuation coverage by reason  
19                 of a qualifying event described in paragraph (3)(G), any  
20                 reference in clause (i) of this subparagraph to ‘102 per-  
21                 cent of the applicable premium’ is deemed a reference to  
22                 ‘125 percent of the applicable premium for employed indi-  
23                 viduals (and their dependents, if applicable) for the cov-  
24                 erage option referred to in subparagraph (A)(ii)’.”.

1       (e) NOTICE.—Section 4980B(f)(6) of such Code is  
2 amended—

3                 (1) in subparagraph (D)(i), by striking “or  
4 (F)” and inserting “(F), or (G)”; and

5                 (2) by adding at the end the following:

6        “The notice under subparagraph (D)(i) in the case of a  
7 qualifying event described in paragraph (3)(G) shall be  
8 provided at least 90 days before the date of the qualifying  
9 event.”.

10       (f) EFFECTIVE DATES.—

11                 (1) IN GENERAL.—The amendments made by  
12 this section (other than subsection (e)(2)) shall  
13 apply to qualifying events occurring on or after Jan-  
14 uary 6, 1998. In the case of a qualifying event oc-  
15 curring on or after such date and before the date of  
16 the enactment of this Act, such event shall be  
17 deemed (for purposes of such amendments) to have  
18 occurred on the date of the enactment of this Act.

19                 (2) ADVANCE NOTICE OF TERMINATIONS AND  
20 REDUCTIONS.—The amendment made by subsection  
21 (e)(2) shall apply to qualifying events occurring  
22 after the date of the enactment of this Act, except  
23 that in no case shall notice be required under such  
24 amendment before such date.

**TITLE IV—FINANCING****SEC. 401. REFERENCE TO FINANCING PROVISIONS.**

Any increase in payments under the medicare program under title XVIII of the Social Security Act that results from the enactment of this Act shall be offset by reductions in payments under such program pursuant to the anti-fraud and anti-abuse provisions enacted as part of the Medicare Fraud and Overpayment Act of 1998.





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